

## PLAN AND AGREEMENT OF MERGER

THIS PLAN AND AGREEMENT OF MERGER (this "Plan") is made and entered into as of the below identified Effective Date by and between BAPTIST MEDICAL CENTER FOUNDATION, a Missouri public benefit corporation (hereinafter referred to as "BMCF"), and TRINITY LUTHERAN HOSPITAL FOUNDATION, a Missouri public benefit corporation (hereinafter referred to as "TLHF").

### RECITALS:

WHEREAS, BMCF is a Missouri nonprofit public benefit corporation whose sole member is Baptist-Lutheran Medical Center, a Missouri nonprofit public benefit corporation;

WHEREAS, TLHF is a Missouri nonprofit public benefit corporation whose sole member is also Baptist-Lutheran Medical Center, a Missouri nonprofit public benefit corporation;

WHEREAS, BMCF and TLHF (hereinafter sometimes collectively referred to as the "Constituent Corporations") desire to merge pursuant to Sections 355.616 through 355.646 of the Revised Statutes of Missouri;

WHEREAS, the Board of Directors of BMCF, as one of the Constituent Corporations, approved this Plan by resolution adopted on May 2, 2002; and

WHEREAS, the Board of Directors of TLHF, as one of the Constituent Corporations, approved this Plan by resolution adopted on May 2, 2002; and

WHEREAS, the Board of Directors of Baptist-Lutheran Medical Center, as the sole member of both BMCF and TLHF, approved this Plan by resolution adopted on May 16, 2002.

NOW, THEREFORE, in consideration of the mutual agreements, premises and covenants contained herein, the parties hereto agree as follows:

1. **Merging Corporations; Name Change; Surviving Legal Entity.** TLHF shall merge with BMCF on the Effective Date (as set forth in Paragraph 2 below), in accordance with and pursuant to Sections 355.616 through 355.646 of the Revised Statutes of Missouri (the "Merger"). For corporate law purposes, (a) the legal name of the surviving corporation, Baptist Medical Center Foundation, shall be changed to Baptist-Lutheran Medical Center Foundation, (b) the composition of the surviving corporation's board of directors shall be modified consistent with the Bylaws adopted pursuant to Paragraph 3 of this Plan, and (c) the board of directors upon completion of the Merger shall consist of those persons referred to in Paragraph 4 hereof (the "Board of Directors"). The resulting legal entity is hereinafter referred to as the "Merged Corporation".

2. **Effective Date.** Upon receipt of all board approvals referred to in the above recitals, TLHF and BMCF shall promptly cause the Articles of Merger and this Plan to be filed with the Office of the Missouri Secretary of State. The date on which the Merger shall become effective shall be the date the Articles of Merger and this Plan are accepted by the Office of the Missouri Secretary of State and such date is herein referred to as the "Effective Date".

3. **Articles of Incorporation and Corporate Bylaws.** The Amended and Restated Articles of Incorporation attached hereto as EXHIBIT A shall be the Articles of Incorporation of the Merged Corporation upon and following the Effective Date. The Amended and Restated Bylaws attached hereto as EXHIBIT B shall be the Bylaws of the Merged Corporation upon and following the Effective Date. Such Articles of Incorporation and Bylaws may be certified as the Articles of Incorporation and Bylaws of the Merged Corporation. These Articles of Incorporation and Bylaws may be amended or repealed only as provided therein.

4. Board of Directors and Officers. Consistent with the Amended and Restated Articles of Incorporation and Bylaws adopted pursuant to Paragraph 3 of this Plan, upon the Effective Date, the persons identified in EXHIBIT C shall be elected the Board of Directors of the Merged Corporation and shall continue in office as directors until their successors shall have been elected and qualified. At the first meeting of the new corporation's Board of Directors, the Board shall appoint or reappoint the officers of the Merged Corporation.

5. Rights and Liabilities of Merged Corporation. On the Effective Date, all property, assets, rights, privileges, immunities, powers, purposes, licenses and franchises, and all and every other interest of each of TLHF and BMCF shall be the property of the Merged Corporation and the title to any real estate vested by deed or otherwise in TLHF or BMCF shall not revert or be in any way impaired by reason of the Merger, but all rights of creditors and all liens upon any property of TLHF or BMCF shall be preserved unimpaired, and all debts, liabilities, obligations, conditions, restrictions, and duties of each of TLHF and BMCF shall thenceforth attach to the Merged Corporation, and may be enforced against it to the same extent as if said debts, liabilities, obligations, conditions, restrictions, and duties had been incurred or contracted by the Merged Corporation. Any bequest, devise, gift, grant or promise contained in a will or other instrument of donation, subscription or conveyance, which is made for the support or benefit of either or both of TLHF or BMCF and which takes effect or remains payable upon and/or following the Effective Date shall inure to the Merged Corporation unless the will or other instrument otherwise specifically provides. Upon the Effective Date, the books of the Merged Corporation shall record all assets and liabilities referred to in this Paragraph 5 at the amounts at which they were carried on the books of TLHF or BMCF immediately prior to the Merger, subject to such intercorporate adjustments or eliminations, if any, as may be required to give effect to the transfer; and subject to such action as may be taken by the Board of Directors of the Merged Corporation in accordance with generally accepted accounting principles.

6. Expenses. The Merged Corporation shall pay the expenses of carrying this Plan into effect and of accomplishing the Merger.

IN WITNESS WHEREOF, the parties have caused this Plan and Agreement of Merger to be executed by their duly authorized officers as of the Effective Date.

BAPTIST MEDICAL CENTER FOUNDATION

TRINITY LUTHERAN HOSPITAL FOUNDATION

By: \_\_\_\_\_  
Darrell W. Moore, President

By: \_\_\_\_\_  
Darrell W. Moore, President

**EXHIBIT A**  
**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**  
**THE MERGED CORPORATION**

See attached.

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
BAPTIST-LUTHERAN MEDICAL CENTER FOUNDATION**

- Article 1. The name of the corporation is Baptist-Lutheran Medical Center Foundation.
- Article 2. This corporation is a Public Benefit Corporation.
- Article 3. The period of duration of the corporation is perpetual.
- Article 4. The name and address of the Registered Agent and Registered Office in Missouri is Judith Vogelsmeier, 2304 East Meyer Boulevard, Suite A-10, Kansas City, Missouri 64132.

of the public as well as for training of personnel relevant to the fields engaged in by the Baptist-Lutheran Medical Center;

- (c) the assistance, sponsorship and encouragement of individuals pursuing an education in the fields engaged in by the Baptist-Lutheran Medical Center;
- (d) the fostering of the accumulation and exchange of health information and the publication and dissemination of such information relevant to the fields engaged in by the Baptist-Lutheran Medical Center; and
- (g) any other purpose permitted by law.

Article 8. It is intended that this corporation have the status of a corporation which is exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code, and which is other than a private foundation by reason of being described in Section 509(a)(3) of the Code. These Articles shall be construed accordingly, and all powers and activities of the corporation are limited accordingly. The corporation has all the powers conferred by the Nonprofit Corporation Act of the State of Missouri, except that the corporation may not have or exercise any power, or engage directly or indirectly in any activity, that would invalidate its status as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Code, or as contributions to which are deductible under Section 170(c)(2) of the Code.

Article 9. Notwithstanding any other provision of these Articles, if this corporation becomes a private foundation, as defined in Section 509 of the Code, during the period it is such a private foundation, the corporation shall:

- (a) not engage in any act of self-dealing as defined in Section 4941(d) thereof;
- (b) distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 thereof;
- (c) not retain any excess business holdings as defined in Section 4943(c) thereof;
- (d) not make any investment in such manner as to subject it to tax under Section 4944 thereof; and
- (e) not make any taxable expenditures as defined in Section 4945(d) thereof.

Article 10. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these Articles.

Article 11. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not, directly or indirectly, participate in, or intervene in (including the publishing or

distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

Article 12. The corporation shall not operate for the purpose of carrying on a trade or business for profit.

Article 13. Upon the dissolution of the corporation, the Board of Directors shall, after paying or making provisions for the payment of all of the liabilities of the corporation, distribute all of the assets of the corporation to Baptist-Lutheran Medical Center to be used exclusively for religious, charitable, scientific, literary or educational purposes, provided Baptist-Lutheran Medical Center is then qualified under Section 501(c)(3) of the Code. If it is not so qualified, the assets shall be distributed for religious, charitable, scientific, literary and educational purposes to such organization(s) that are described in Section 501(c)(3) of the Code as selected by the board of directors of Health Midwest or its successor in interest. Any of such assets not so distributed shall be distributed by the Circuit Court in the county in the State of Missouri in which the principal office of the corporation is at the time located, exclusively for the aforesaid purposes, of the corporation or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

Article 14. The effective date of this document is the date it is filed by the Secretary of State of Missouri.

**EXHIBIT B**  
**AMENDED AND RESTATED BYLAWS**  
**OF**  
**THE MERGED CORPORATION**

The Amended and Restated Bylaws  
will be kept at the following address:

6601 Rockhill Road  
Kansas City, Missouri 64131

See attached.

EXHIBIT C

**BAPTIST-LUTHERAN MEDICAL CENTER FOUNDATION  
BOARD OF DIRECTORS  
May 2002**

Thomas J. Bash  
Eveans, Bash, Magrino & Klein, Inc.  
7500 College Blvd., Suite 1212  
Overland Park, KS 66210

K. Steven Braton, D.O.  
Highland Medical Group  
6724 Troost Avenue, Suite 600  
Kansas City, MO 64131

Virginia L. Coppinger  
8 East 55<sup>th</sup> Terrace  
Kansas City, MO 64113

Robert H. Durie, M.D.  
20375 West 151<sup>st</sup> Street, Suite 451  
Olathe, KS 66061

James B. Earnest, M.D.  
4997 West 343<sup>rd</sup> Street  
Louisburg, KS 66053

Caroline French  
8101 Mission Road, Apt. 123  
Prairie Village, KS 66208

Frederick H. Hartwig, M.D.  
2900 Baltimore, Suite 300  
Kansas City, MO 64108

Tavia Hunt  
3920 Euclid Avenue  
Dallas, TX 75205

Charles J. Lane, Jr.  
8523 Hallett  
Lenexa, KS 66215

Marti K. Leo  
Southtown Council  
6814 Troost Avenue  
Kansas City, MO 64131

John C. McKeever  
McKeever Enterprises, Inc.  
4216 South Hocker  
Independence, MO 64055

Sandra G. Mitchell  
Urology Chartered  
2900 Baltimore, Suite 540  
Kansas City, MO 64108

Darrell W. Moore  
Baptist-Lutheran Medical Center  
6601 Rockhill Road  
Kansas City, MO 64131

Dana H. Nelson  
2015 Stratford Road  
Shawnee Mission, KS 66208

Reverend Michael D. Peck  
Holy Cross Lutheran Church  
7851 West 119<sup>th</sup> Street  
Overland Park, KS 66213

Jane P. Rues  
Rockhurst University  
1100 Rockhurst Road  
Kansas City, MO 64110

Becky M. Schaid  
Baptist-Lutheran Medical Center  
6601 Rockhill Road  
Kansas City, MO 64131

Robert E. Smith, D.D.S.  
8814 Alhambra Drive  
Shawnee Mission, KS 66207

Donald B. Steele  
Morrison & Hecker  
2600 Grand Avenue  
Kansas City, MO 64108



Baptist-Lutheran Medical Center Foundation  
Board of Directors  
May 2002  
page 2

W. Jack Stelmach, M.D.  
11345 Buena Vista  
Leawood, KS 66211

Mark R. Suenram, M.D.  
Baptist-Lutheran Medical Center  
Goppert Family Care  
6601 Rockhill Road  
Kansas City, MO 64131

Christine H. Taylor-Butler  
737 Manheim Road  
Kansas City, MO 64109

Al Tikwart, Jr.  
American Lithographics, Inc.  
325 East 31<sup>st</sup>  
Kansas City, MO 64108

David A. Tillema, M.D.  
9 K Street  
Lake Lotawana, MO 64086

John E. Tillotson, II  
Modern Handcraft, Inc.  
9926 West 62<sup>nd</sup> Terrace  
Merriam, KS 66203

Susan P. Vicory  
6200 West 181<sup>st</sup> Street  
Stilwell, KS 66085

**FILED**

MAY 28 2002

*Matt Blunt*  
SECRETARY OF STATE